

REMARKS

Applicant respectfully requests reconsideration of the present application in view of the foregoing amendments and in view of the reasons that follow.

Examiner Interview

An interview was conducted between Examiner Nelson and Applicant's representative. Lee et al., Brooks et al., and suspension fabric covers were briefly discussed. The withdrawal of Claims 10-26 was also discussed. Agreement was not reached, but the issues underlying the disagreement between Applicants and the examiner were clarified.

Election/Restrictions

While election was discussed with the examiner during the interview and not agreed upon, the examiner is respectfully requested to review the following points not made during the interview.

On page 2 of the Office Action, the reason given for restricting Claims 1-6 from 10-26 was that the inventions are directed to distinct inventions. More particularly, while Claims 1 and 10 may rely on similar grounds for novelty, the claims that depend from Claim 10 recite different features from those claim which depend from Claim 1 thereby making the Groups of claims (Claim 10 and its dependents and Claim 1 and its dependents) distinct from each other.

The inventions are distinct if it can be shown that a combination as claimed does not require the particulars of the subcombination as claimed for patentability (to show novelty and unobviousness). See MPEP 806.05(c)(A). Thus, the question is not whether the two sets recite similar dependent claims, but rather whether the two sets rely on a same feature for novelty and unobviousness. Also, the patentability of the claims is assumed when making an initial decision as to restriction. See MPEP 806.02. Based on the art cited to date, Claim 1

and Claim 10 do rely on the same feature for novelty and unobviousness. Further, Applicants intend to amend Claim 10 in a manner similar to Claim 1 if it is found that these claims are not patentable over the cited art.

The examiner is respectfully requested to reconsider the restriction and withdrawal of Claims 10-26 and 40. Alternatively, the examiner is respectfully requested to allow Applicants to reinstate Claim 10 and its dependent claim if Claim 1 is found to be allowable over the art of record.

Claim Rejections – 35 U.S.C. § 112

A. Claims 27 and 33

On page 3 of the Office Action, Claims 27 and 33 were rejected under 35 U.S.C. § 112 as not being described in the original specification in such a way as to reasonably convey to one of ordinary skill in the art that the inventor had possession of the invention at the time the application was filed. Claim 27 recites “wherein the shrink yarn is selected such that the suspension cover is sufficiently taut to support an occupant only after shrinking the shrink yarn.” Claim 33 recites a limitation similar to Claim 27. Support for these claims can be found in paragraphs [0013], [0022], and [0023] of the original specification where the specification recites that the cover is loosely placed over the frame in its baggy state and is then shrunk to a state where it is sufficiently taut to support an occupant.

B. Claim 37

On page 4 of the Office Action, Claim 37 was rejected under 35 U.S.C. § 112, second paragraph as being indefinite. Particularly, the Office Action states that lines 3-5 are grammatically vague. Lines 3-5 recite “wherein... placing over the seat frame the heat shrinkable double jersey knit cover” (an element from the independent claim) “comprises placing the heat shrinkable double jersey knit cover over the seatback portion of the seat frame” (a more specific limitation of the element from the independent claim). Thus, Claim 37 requires that the heat shrinkable double jersey knit cover is placed over at least the

seatback portion of the seat frame, as opposed to Claim 4 which does not require a specific location of the placement over the seat frame. Applicants hope that this clarifies any ambiguity the examiner may have had.

Claim Rejections – 35 U.S.C. § 102

On pages 4 and 5 of the Office Action, Claims 1, 4, 27-37, and 39 were rejected under 35 U.S.C. § 102(b) as being anticipated by Brooks et al. and under 35 U.S.C. § 102(b) as being anticipated by Lee et al. Claim 1 recites “a suspension fabric cover, the suspension fabric cover comprising a shrink yarn.” Neither Brooks et al. nor Lee et al. teach a suspension fabric cover. Rather, Brooks et al. is directed to an upholstery fabric cover. Col. 1, lines 6-8. Lee et al. is likewise directed to a cover to be placed over and form fitted to a portion of the seat which provides the support for the occupant. Col. 1, lines 12-15. For an understanding of what is meant by a suspension fabric cover, the examiner is directed to review at least paragraph [0002] and the end of paragraph [0003] of the present application. Since Claim 1 recites at least one element not taught or suggested by either Brooks et al. or Lee et al., neither reference anticipates Claim 1. Claims 27-32 and 38 depend from Claim 1 and would be allowable for at least the same reasons as Claim 1.

Claim 4 recites a seat frame and cover prepared by “heating the combination of the frame and double jersey knit to result in a seat frame covered by a suspension fabric.” As discussed above, neither Brooks et al. nor Lee et al. teach a seat frame covered by a suspension fabric. Since Claim 4 recites at least one element not taught or suggested by either Brooks et al. or Lee et al., neither reference anticipates Claim 4. Claims 33-37 and 39 depend from Claim 4 and would be allowable for at least the same reason as Claim 4.

Withdrawal of the rejections of Claims 1, 4, and 27-39 is respectfully requested.

Claim Rejections – 35 U.S.C. § 103

On pages 5 and 6 of the Office Action, Claims 2 and 5 were rejected over one of Brooks et al. (US 5,235,826) or Lee et al. (US 6, 279,999) as applied to Claims 1 and 4 (respectively) in view of Girard et al. (US 5,802,882). On pages 6 and 7 of the Office Action, Claims 3 and 6 were rejected over one of Brooks et al. (US 5,235,826) or Lee et al. (US 6,279,999) as applied to Claims 1 and 4 (respectively) in view of Blake (US 2003/0056703). As discussed above, neither Brooks et al. nor Lee et al. are directed to a suspension fabric seat cover. Further, neither Girard et al. nor Blake is directed to a suspension fabric cover. Rather, Girard appears to be directed to an upholstery seat cover. See Fig. 1 and the patents cited at Col. 1, lines 61-62 (each directed to an upholstery fabric cover).

Further, the claimed invention of Claim 1 is not an obvious variation of Brooks et al., Lee et al., Girard et al., Blake, or any combination of those references. When designing an upholstery cover, a person of skill in the art does not need to be concerned with designing a cover that is sufficiently taut to support an occupant along with other concerns. See for instance, paragraphs [0003], [0004], [0013], and [0023] of the present invention. Rather, Lee et al. teaches that a shrink yarn should be included so that the upholstery cover will be form fitting to a cushion and frame and does not include wrinkles. Col. 1, lines 15-18 and 46-49. Brooks et al. teaches using a heat shrinkable yarn to form a less extensible line that may be used to properly line up and maintain the upholstery cover on the item being upholstered (such as a vehicle seat cushion). Col. 1, lines 51-68. As discussed in the response to the previous action, Girard et al. teaches forming an indicator tab that shrinks after heat treatment so that a user may be aware that the cover has gone through heat treatment. Col. 1, lines 35-42. None of these patents address the particular concerns addressed by a person designing a suspension-fabric-based seat cover as claimed in Claim 1.

Since none of the references includes at least one element of Claims 1 and 4 from which Claims 2, 3, 5, and 6 depend, and since no reference provides a motivation to include the missing element, Claims 2, 3, 5, and 6 are believed to be allowable over the various combinations of Brooks et al., Lee et al., Girard et al., Blake. Thus, withdrawal of all four rejections under 35 U.S.C. § 103 is respectfully requested.

Conclusion

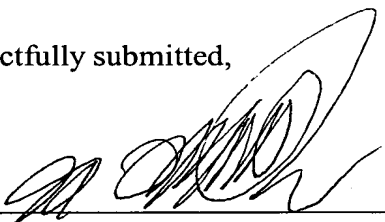
Applicant believes that the present application is now in condition for allowance. Favorable reconsideration of the application as amended is respectfully requested.

The Examiner is encouraged to contact the undersigned by telephone if it is felt that a telephone interview would advance the prosecution of the present application.

The Commissioner is hereby authorized to charge any additional fees which may be required regarding this application under 37 C.F.R. §§ 1.16-1.17, or credit any overpayment, to Deposit Account No. 06-1447. Should no proper payment be enclosed herewith, as by a check being in the wrong amount, unsigned, post-dated, otherwise improper or informal or even entirely missing, the Commissioner is authorized to charge the unpaid amount to Deposit Account No. 06-1447. If any extensions of time are needed for timely acceptance of papers submitted herewith, Applicant hereby petitions for such extension under 37 C.F.R. §1.136 and authorizes payment of any such extensions fees to Deposit Account No. 06-1447.

Respectfully submitted,

Date 2-27-04

By 

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